

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

LARGAN PRECISION CO., LTD.,

Plaintiff,

v.

ABILITY OPTO-ELECTRONICS TECHNOLOGY CO., LTD., ET AL.,

Defendants.

Case No. 4:19-cv-696-ALM


**DECLARATION OF CHIA-WEN LEE IN OPPOSITION TO
AOET'S AND NEWMAX'S MOTIONS TO DISMISS**

I, Chia-Wen Lee, declare as follows:

1. I am the Head of the Legal Division at Largan Precision Co., Ltd., where I have worked since November 2009.

2. I am an attorney duly licensed to practice law in the State of New York. After earning my law degree in Taiwan, I attended The Pennsylvania State University Dickinson School of Law, where I earned both a Master of Laws (L.L.M.) and a Juris Doctorate (J.D.). I spent a year practicing law in the United States before returning to Taiwan.

3. I make this declaration in opposition to AOET's and Newmax's motions to dismiss (Dkt. #30 and 39) based on my own personal knowledge except where stated otherwise, and if called to do so, could and would competently testify to the facts stated herein.

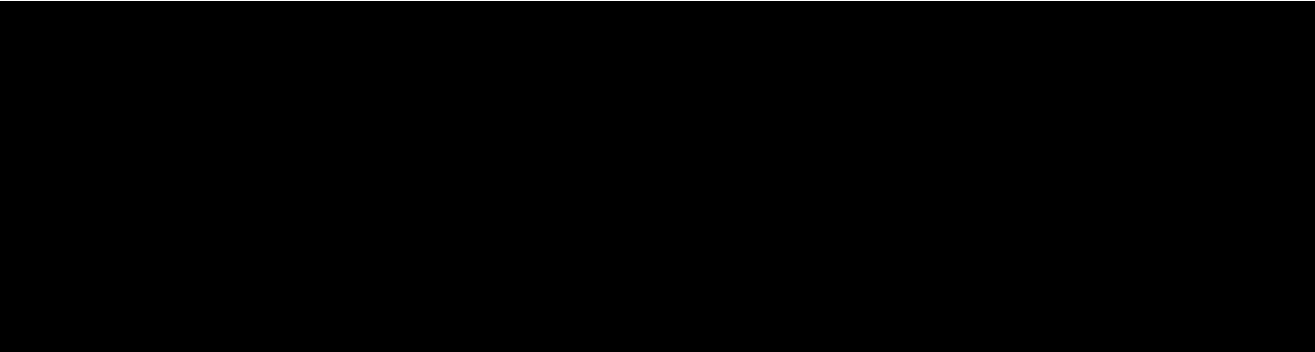
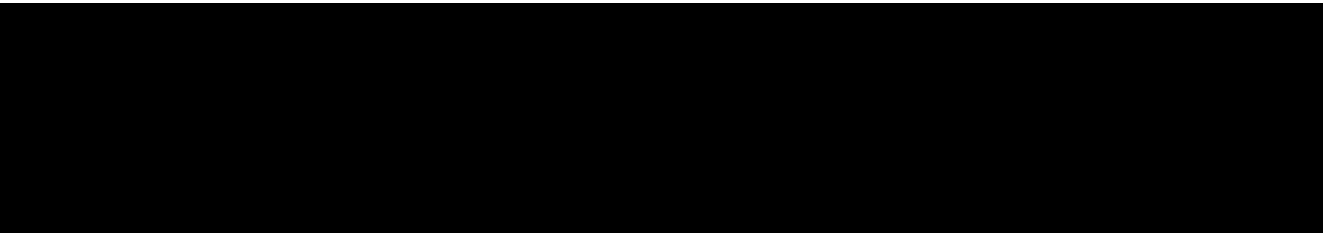


5. Additionally, I have reviewed the declarations of Nicole Hsiao and Ching-Kuan Lin, which AOET and Newmax submitted in support of their respective motions. As further explained below, those declarations inaccurately portray the imaging-lens industry generally, and AOET's and Newmax's connections with HP, the United States, and Texas specifically.

**HP Products Incorporating Infringing AOET and Newmax
Lenses Are Sold Throughout the United States and Texas.**

6. As stated in the complaint, Largan enlisted the support of a computed tomography ("CT") scanner to confirm that infringing AOET and Newmax lenses were incorporated into end products sold across the United States and Texas.

7. During Largan's pre-suit investigation, Largan also purchased numerous HP products in the United States to test whether they infringe the patents-in-suit; provided copies of the

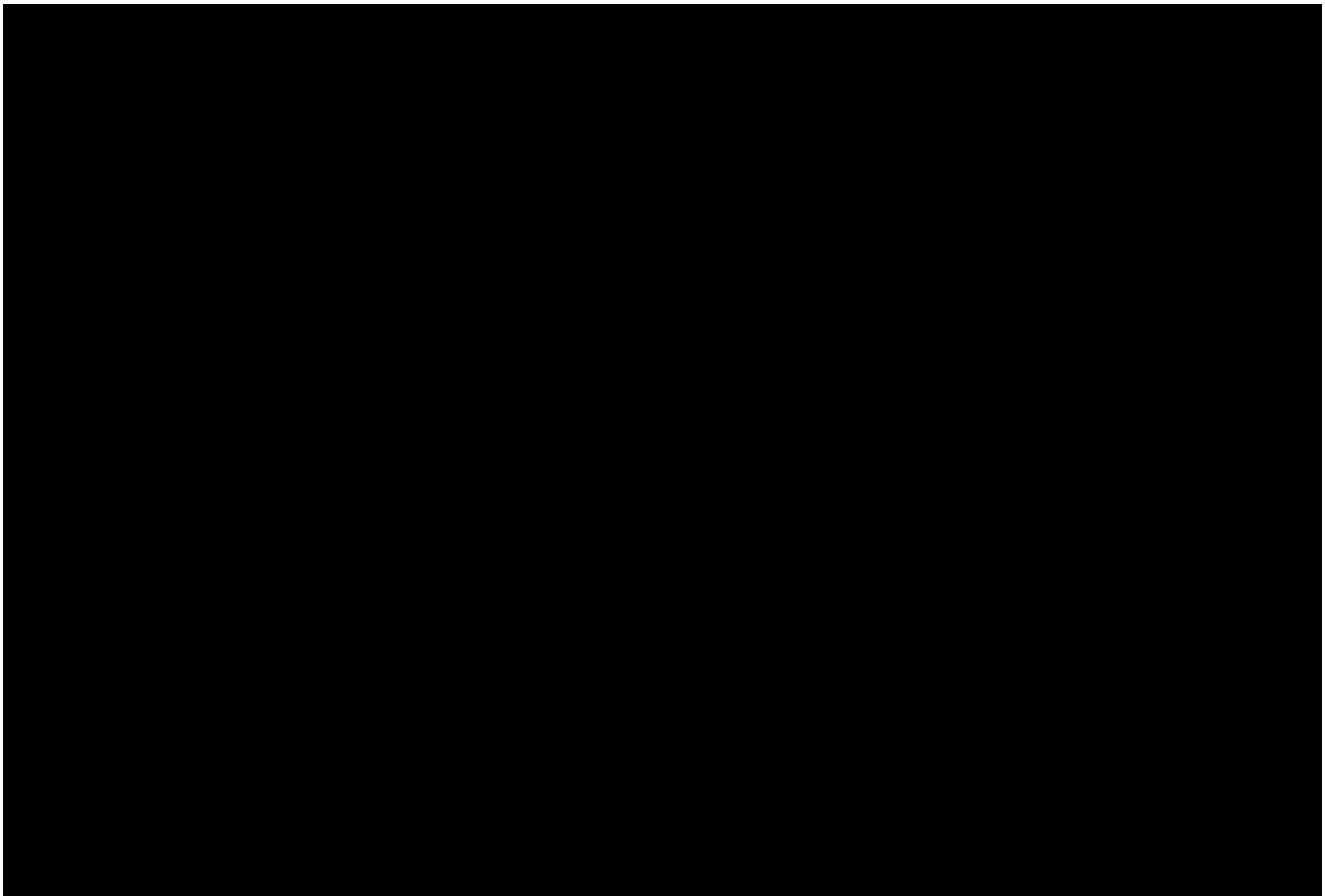


HP models	Product ID	Webcam lens suppliers
HP Spectre Folio	3SD73AV_1	
	4TL67UA#ABA	
	5GQ93UA#ABA	
HP Pavilion x360 Convertible 14	4NC87UA#ABA	
HP x360 Convertible 14M	3DR45AV_1	
	4NC87UA#ABA	
HP x360 Convertible 14T	3DR45AV_1	
	4SX04AV_1	
HP Envy x360 15T	5JR84AV_1	
	5JR82AV_1	
	5QN41AV_1	
	3EC87AV_1	
	5HK14AV_1	
HP Envy x360 15Z	3EC81AV_1	
	5QN27AV_1	
HP Envy x360 Convertible 15	4HH56UA#ABA	
	5JR84AV_1	
	4HH53UA#ABA	
	1KS77UA#ABA	
HP Envy x360 Convertible 15M	1ZA23AV_1	
	4QF77AV_1	
HP Envy 15	1UZ37EA	
HP Omen X 17	2LV61UA#ABA	
HP Omen 17	3AW55AV_1	
	5UK34AV_1	
	4NA35UA#ABA	
	4FJ26AV_1	
HP Omen X 17T	1PN85AV	
HP EliteBook 1050G1	4NC54UT#ABA	
	3TN94AV_MB	
	4NC55UT#ABA	
	4NL54UT#ABA	

HP Zbook Studio x360 G5	4NL02UT#ABA
	2YS50AV_MB
	4NL13UT#ABA
	4NL44UT#ABA
HP Zbook Studio G5	4NH77UT#ABA
	2YN59AV_MB
	4NH78UT#ABA
	4NM08UT#ABA
HP Elitebook 745 G5	4JB96UT#ABA
	2MG22AV_MB
	4JB83UT#ABA
	4JB90UT#ABA
HP Elitebook 755 G5	4HZ47UT#ABA
	2MN14AV_MB
	4HZ48UT#ABA
	4HZ53UT#ABA
HP Pavilion x360	3DZ22AV_1
	5TM97AV_1
	5RD26AV_1
HP Elite x2	5RB71UT#ABA
	2KN62AV_MB
	4RG84UT#ABA
HP EliteBook 840r G4	2LG02AV_MB

11. As the complaint states, I followed up with HP, AOET, and Newmax in an effort to obtain more information about which suppliers provided the imaging lenses in HP products suspected of infringing the patents-in-suit.

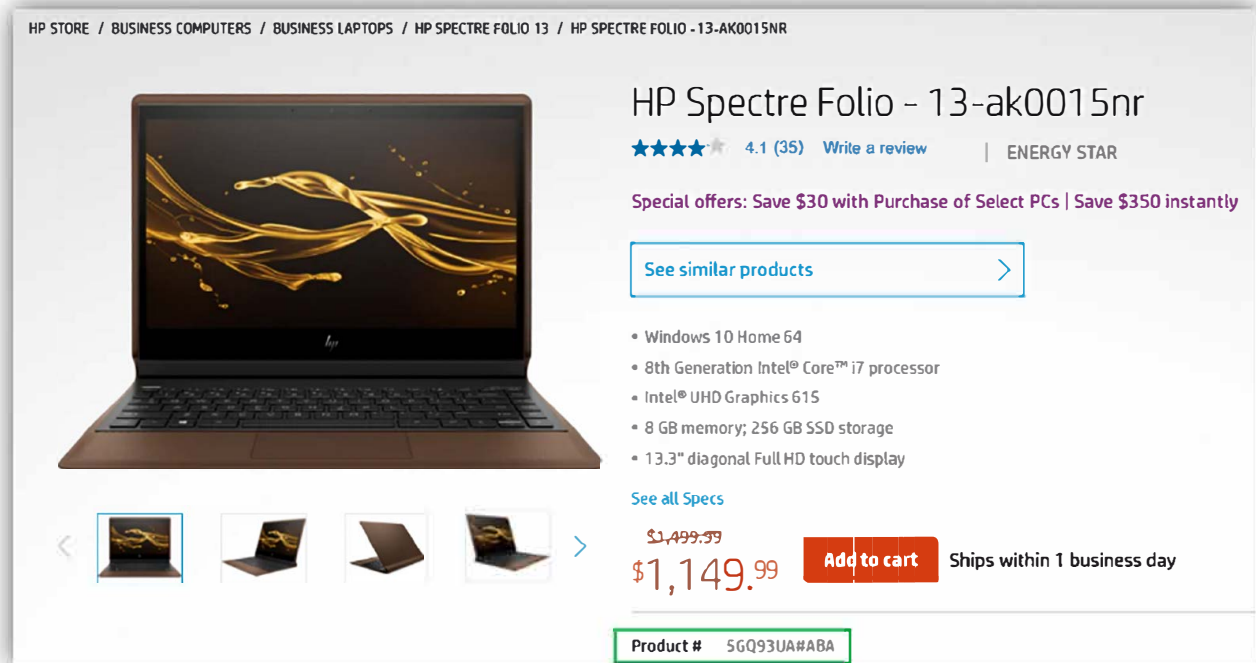
12. For instance, on August 8, 2019, I emailed AOET asking for the AOET model numbers that corresponded to certain HP product models, and I attached images of the camera modules and lens systems in those product models. A true and correct copy of that email is attached as Exhibit 2.



15. Based on the results of Largan's testing, Largan included most of the products in the above chart, by name, as accused products in the complaint. Even without further pre-suit co-operation from the defendants or the discovery to which Largan is entitled, Largan can show that many of these infringing products, including many products for which AOET or Newmax are the sole suppliers, are or were sold in the United States.

16. For example, Largan's complaint accuses the HP Spectre Folio. As noted, HP identified AOET as the sole source of lenses for the HP Spectre Folio. And in HP's chart, HP identified AOET as the only supplier for three specific Spectre Folio products corresponding to HP product numbers 3SD73AV_1, 4TL67UA#ABA, and 5GQ93UA#ABA.

17. Two of those Spectre Folio products currently are being sold, or were sold, across the United States and in Texas via HP's website. This includes HP product number 5GQ93UA#ABA, as shown below:



18. HP product number 3SD73AV_1 also can be found on HP's website but is out of stock. As of January 4, 2019, the website directs customers to the page for product number 5GQ93UA#ABA, shown above, which the website describes as similar.

19. The third HP Spectre Folio product listed in HP's chart, product number 4TL67UA#ABA, also is currently being sold across the United States and in Texas, but on other websites including Amazon.com, Walmart.com, Newegg.com, and BestBuy.com.

20. A true and correct copy of a printout of the Amazon.com listing for product number 4TL67UA#ABA is attached as Exhibit 3. As shown below, the product number appears under "Other Technical Details."

^ Other Technical Details	
Brand Name	HP
Series	HP Spectre
Item model number	4TL67UA#ABA

21. A true and correct copy of a printout of the Walmart.com listing for product number 4TL67UA#ABA is attached as Exhibit 4. As shown below, the product number appears under “Specifications.”

Specifications	
Processor Type	Intel Core i7
Hard Drive Capacity	256 GB
Processor Speed	1.50 GHz
Manufacturer Part Number	4TL67UA#ABA

22. A true and correct copy of a printout of the Newegg.com listing for product number 4TL67UA#ABA is attached as Exhibit 5. As shown below, clicking on a “Specifications” tab reveals additional information, including the product number.

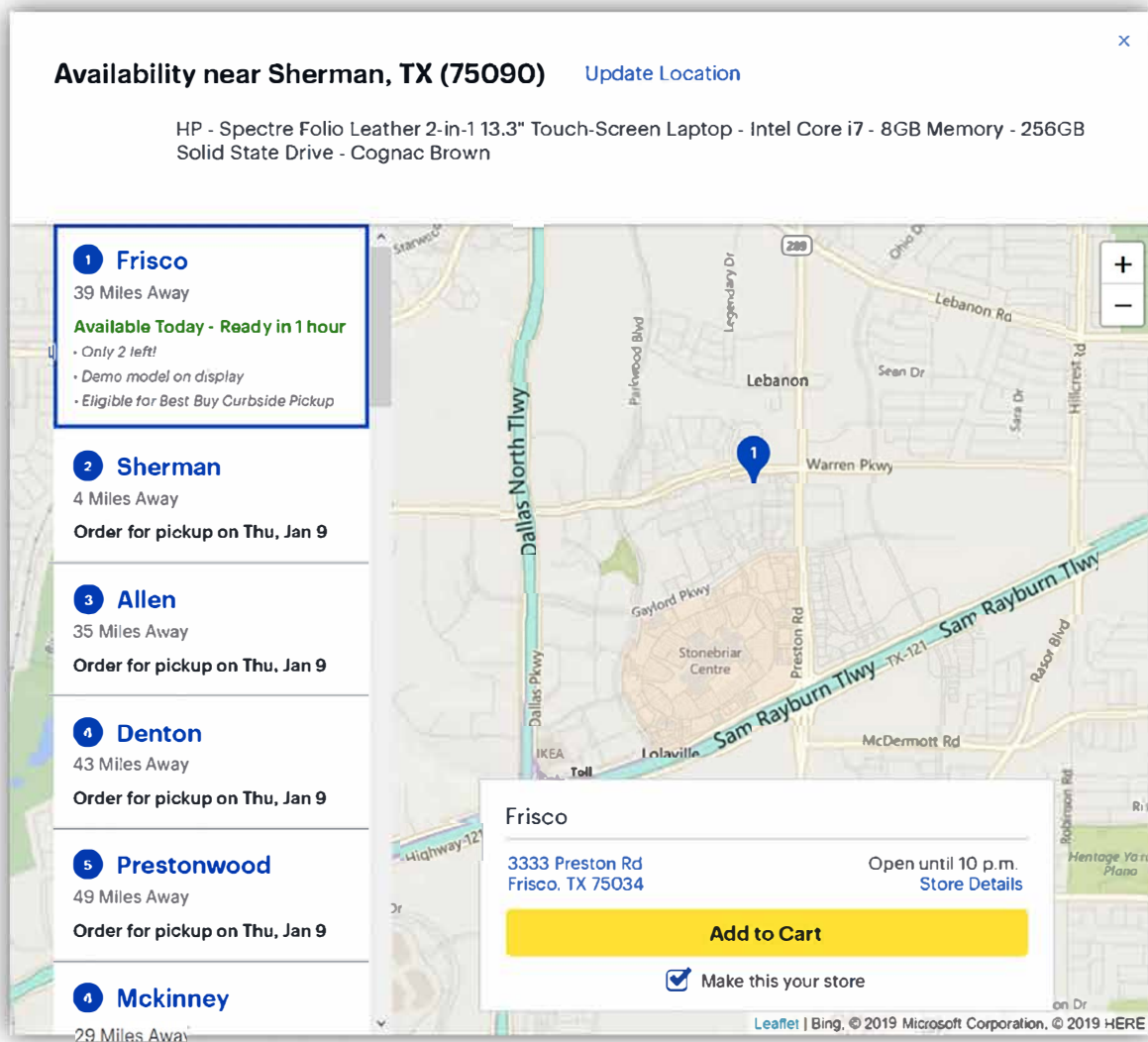
Model	
Brand	HP
Series	Spectre Folio
Model	13-ak0013dx
Part Number	4TL67UA#ABA

23. On Best Buy's website, this HP Spectre Folio product is listed for sale by name (i.e., "HP - Spectre Folio Leather 2-in-1 13.3" Touch-Screen Laptop - Intel Core i7 - 8GB Memory - 256GB Solid State Drive - Cognac Brown"). But Best Buy's downloadable "Product Datasheet/Brochure (PDF)" provides additional details, including the product number:

Additional Information	
Product number	• 4TL67UA#ABA
Ad embargo date	• 10/28/2018
UPC Code	• 193015134423
Country of origin	• China

True and correct copies of a printout of the BestBuy.com listing and the "Product Datasheet/Brochure (PDF)" are attached as Exhibit 6.

24. Best Buy's website further indicates that this particular Spectre Folio product is for sale and on display at Best Buy brick-and-mortar stores in Texas, including its locations in Frisco, Park Lane, Grapevine, Hurst, and Arlington. It's also available for purchase and in-store pick-up at numerous other Best Buy locations in Texas, including the store located at 823 North Creek Drive in Sherman, and more than a dozen other locations within about 50 miles of the Paul Brown United States Courthouse:



25. Additionally, Largan's pre-suit investigation and testing determined that at least one camera in all the accused HP products named in Largan's complaint infringe one or more patents-in-suit. And to conduct that investigation and testing, Largan purchased accused HP products from different locations in the United States, at brick-and-mortar stores as well as online.

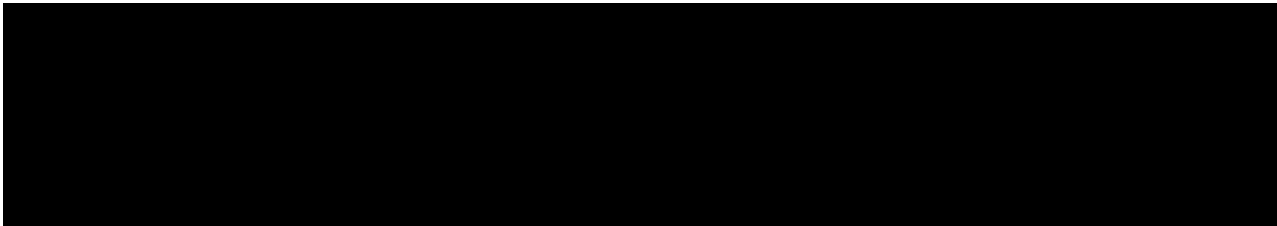
26. In February 2019, for example, Largan purchased the same HP Spectre Folio product that's currently on display in Frisco, Texas (product number 4TL67UA#ABA) from the Best Buy store in San Carlos, California. This product is listed in Largan's complaint. According

1050 G1, product number 4NC54UT#ABA, which contains a front-facing HD IR webcam with dual camera lenses (i.e., one RGB lens and one IR lens). Largan's testing indicates that both lenses infringe a patent-in-suit. This product was sold throughout the United States and in Texas via HP's website, which is where Largan purchased it and had it shipped to a designated address in the United States. This product is still listed on HP's website but is currently out of stock, as shown below.



28. In addition, Largan has separately purchased the relevant components of accused HP products (e.g., camera modules or webcams) in the United States via HP's website. And according to FedEx tracking information, most of those components were shipped from Texas, where HP has extensive operations.

29. For example, Largan purchased HP part number L30660-001 in February 2019, and it was shipped from HP in Texas to a designated address in the United States. According to the “HP PartSurfer” and “Manuals” on HP’s website, this part is an IR camera module used in several HP products, including the above-mentioned HP EliteBook 1050 G1, and other HP products accused in Largan’s complaint, such as the HP Zbook Studio G5 and HP Zbook Studio x360 G5. In the above chart, HP identified Newmax as the sole lens-system supplier for HP EliteBook 1050 G1, product number 4NC54UT#ABA, and AOET as the sole lens-system supplier for the HP Zbook Studio G5, product numbers 4NH78UT#ABA and 4NM08UT#ABA, and the HP Zbook Studio x360 G5, product number 4NL44UT#ABA.



accused HP products such as the HP EliteBook 1050 G1, the HP Zbook Studio G5 and HP Zbook Studio x360 G5. And when HP sold those modules to consumers in the United States directly, HP shipped some or all of the parts from Texas.

31. Further, Largan has purchased and analyzed HP products beyond those listed in HP’s chart or their relevant components. For example, from the same Best Buy where Largan purchased the Spectre Folio mentioned above, Largan purchased an HP Pavilion x360, product number 3XV03UA#ABA. This product is accused in the complaint because Largan’s testing indicates that it infringes. Discovery will confirm if AOET and/or Newmax supplied the lenses for this product, just like they supplied the lenses for most of the other accused HP products. In addition, discovery will also confirm that many HP products are named differently but incorporate the same lens systems.

AOET's and Newmax's Submissions Inaccurately Portray Their Relationships with HP and Their Connections to the United States and Texas.

32. As the complaint states, Largan is the world's largest supplier of high-end imaging lenses for smartphones. Largan's lenses can also be found in other consumer electronic products, including notebook and laptop computers. AOET and Newmax are two of Largan's direct competitors in the imaging-lens industry.

33. Ms. Hsiao's declaration acknowledges, without providing any significant detail, that AOET has "a commercial relationship with HP," has designed lenses "for use in HP products," and has entered into at least two formal contracts with HP. Mr. Lin's declaration includes less information, as it neither confirms nor denies whether Newmax has a relationship with HP, has designed lenses for HP, or has entered into any agreements with HP.

34. Both Ms. Hsiao's declaration and Mr. Lin's declaration omit any explanation of how imaging-lens manufacturers like AOET, Newmax, and Largan make decisions about which lenses they manufacture, the specifications of those lenses, how many to manufacture, who to sell them to, and for how much.

35. End product-manufacturers like HP (or OEMs, as Newmax refers to them to differentiate them from end-product integrators in China) play a major role in all those decisions. Most imaging lenses are custom manufactured based on requirements and guidance provided, directly or indirectly, by end-product manufacturers like HP.

36. More specifically, imaging-lens manufacturers typically sell into supply chains associated with a particular end-product manufacturer. Although there may be no direct sales between the imaging-lens manufacturer and the end-product manufacturer, they engage in general discussions on price, specifications, production capacity, and other issues. These discussions are often memorialized in a "Statement of Work" or another document setting forth the end-product

manufacturer's expectations. Following these discussions, imaging-lens manufacturers typically engage in direct sales negotiations with other entities in the supply chain, such as module integrators, using the guidance provided by the end-product manufacturer as a reference.

37. Because demand by end-product manufacturers can drive and impact sales to their supply chains, imaging-lens manufacturers value and cultivate relationships with end-product manufacturers located in the United States (i.e., the largest market for consumer electronics), not just entities with which they engage in direct sales. And to foster such demand, imaging-lens manufacturers may send sample products to end-product manufacturers, attend trade shows, and employ other sales strategies. It's also common for imaging-lens manufacturers' engineering teams to visit the United States to collaborate with end-product manufacturers on product expectations and design.

38. For instance, Newmax has continually stated in its annual reports from 2010 to 2019 that its marketing strategy involves establishing "upstream and downstream strategic alliances" with well-known international brands and manufacturers. Newmax also made a statement to the Taipei Exchange, an organization that provides over-the-counter (OTC) and bond trading in Taiwan, advertising the fact that its lenses could be found in the notebook built-in cameras of the world's top five notebook-computer manufacturers. True and correct copies of the relevant portions of Newmax's 2019 annual report and a printout of the statement on the Taipei Exchange website are attached as Exhibit 7. I am fluent in Mandarin Chinese and certify that the above descriptions of these exhibits are accurate.

39. Further, in addition to these contacts, end-product manufacturers like HP communicate with suppliers at every level in their supply chains for other purposes, such as to certify compliance with legal requirements or ethical standards.

40. According to a notice that HP posted on its website regarding the California Transparency in Supply Chains Act of 2010, HP regularly audits suppliers for compliance with its “Supplier Code of Conduct” and other standards. True and correct copies of that Notice and HP’s Supplier Code of Conduct are attached as Exhibits 8 and 9, respectively.

41. HP’s Supplier Code of Conduct applies to all suppliers, including those engaged in manufacturing “parts, components, subassemblies, and materials” for HP products. Exhibit 9 at 1. HP also claims that this Code of Conduct is “a total supply chain initiative,” and requires suppliers to certify “that they require their next tier suppliers to acknowledge and implement the HP Code of Conduct and hand the HP Code down to their sub-tier suppliers.” Exhibit 8 at 3; *see* Exhibit 9 at 2 (similar). Further, HP “require[s] suppliers to monitor the performance of their next tier suppliers against the requirements of the Code of Conduct.” Exhibit 8 at 3; *see* Exhibit 9 at 9 (Supplier Responsibility).

42. So AOET and Newmax both know, or should know, that their lens systems are incorporated into HP products. They also know, or should know, that those products are sold throughout the United States, including in Texas, the state with the second largest population. Other publicly available facts and facts that Largan learned during its investigation confirm these conclusions.

43. As noted, HP has extensive facilities in Texas, although it claims that its principal place of business is in California. HP lists only two United States office locations on its website: one in California and one in Texas. *See* <<https://www8.hp.com/us/en/contact-hp/office-locations.html>>. According to a recent news article, HP recently built a 378,000-square-foot campus near Houston, where approximately 2,300 HP employees work. *See* <<https://www.houstonchronicle.com/business/article/First-look-HP-s-new-Houston-campus-13732032.php>>. Additionally, a

major distributor of HP products across the United States, SMS InfoComm, is a Texas corporation headquartered in Grapevine.

44. Further, as the complaint explains, AOET has repeatedly stated in annual reports that the United States is “the main market” for its products. AOET’s 2015–2018 annual reports, or “journals,” are available in Chinese on its website at <<http://www.aoet.com.tw/en/investor>>.

45. In each of AOET’s 2015–2018 annual reports, AOET explains that it applies for patent protection mainly in Taiwan, China, and the United States to enhance the value of its products, and that this is because of its R&D and manufacturing locations in Taiwan, because of its manufacturing location in China, and because the United States is “the main market” for its products. A true and correct copy of the relevant portion of the 2018 report is attached as Exhibit 10. I am fluent in Mandarin Chinese and certify that my description of this exhibit is accurate.

46. Based on the facts that Largan’s investigation has revealed so far, AOET also regularly solicits and conducts business with other end-product manufacturers and companies in the United States, including Dell, which is headquartered in Texas.

47. AOET’s motion and Ms. Hsiao’s declaration omit any mention of Dell, even though the pre-suit infringement notices and communications that Largan sent to AOET, as alleged in paragraphs 31, 33, and 36 of the complaint, discussed the incorporation of AOET lenses into Dell products along with the accused HP products.

48. For example, the subject line of the letter that I sent to AOET on May 20, 2019, referred to “AOET lens products used in HP’s and Dell’s products.” And the body of the letter listed two Dell products that Largan suspected of incorporating AOET lenses. A true and correct copy of that letter is attached as Exhibit 11.

49. Although Dell is not a party to this action, Largan also notified Dell that its products may infringe patents-in-suit due to the incorporation of AOET lenses. And in subsequent communications between Largan and Dell, Dell confirmed that AOET is one of its suppliers.

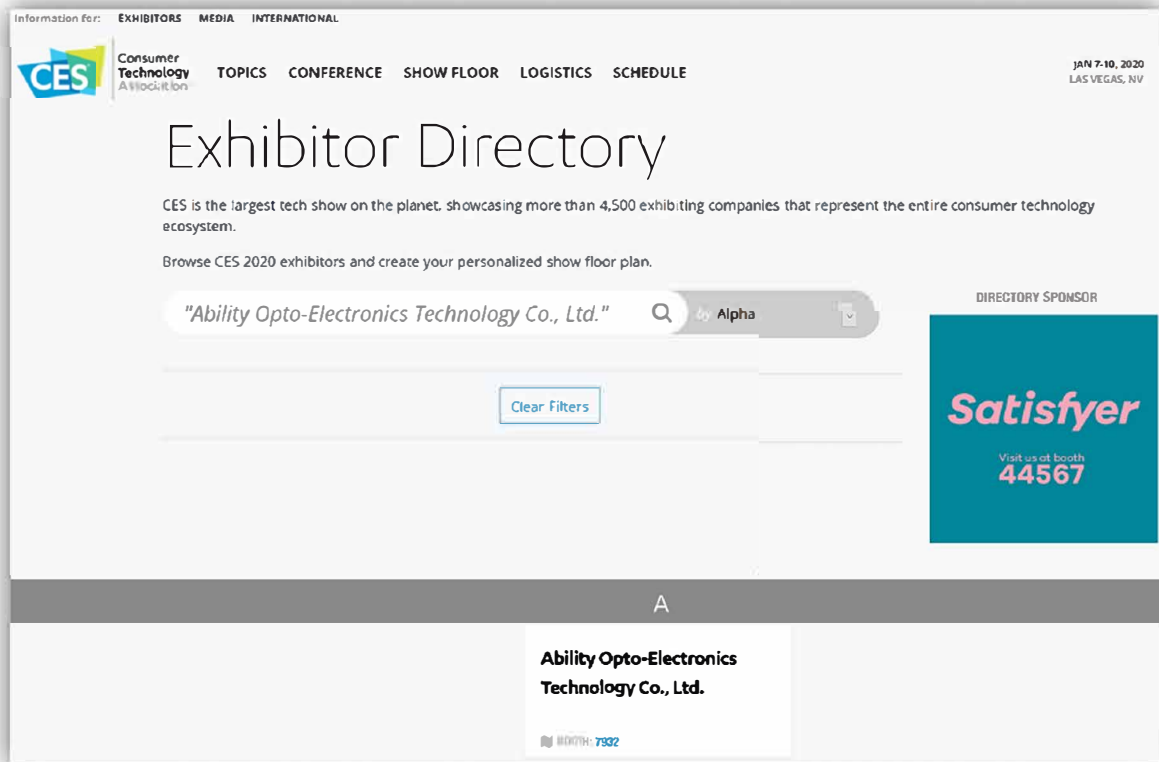
50. AOET and Newmax also supply other United States companies. For instance, AOET is included on the public list of suppliers that Amazon publishes on its website. The list can be downloaded at <<https://sustainability.aboutamazon.com/social-responsibility>>. A true and correct copy of the relevant excerpt is attached as Exhibit 12.

51. Newmax also was “the only supplier of camera modules used in Microsoft Kinect sensors” and shipped “as many as 14 million units of these modules in 2010,” according to the DigiTimes, a Taiwan-based newspaper focusing on the electronics and computer industries in Taiwan and China. *See* <<https://www.digitimes.com/news/a20101028PD206.html>>. A true and correct copy of a printout of an archived version of this article is attached Exhibit 13.

52. Two more news articles in Chinese, dated February 23 and July 11, 2017, confirm that AOET is a significant supplier of lenses for Dell laptop webcams and that AOET also supplies major United States manufacturers of smart home products, including Amazon and Google. True and correct copies of those articles are attached as Exhibit 14. As noted, I am fluent in Mandarin Chinese and certify that my description of this exhibit is accurate.

53. Beyond those contacts with American companies, another Taiwan news article states that AOET’s General Manager and Chairman of the Board, Weiya Gao, attended the 2018 CES trade show for consumer electronics in Las Vegas with a delegation of AOET employees, and they thereafter planned to visit AOET “customers” in San Francisco. A true and correct copy of that news article is attached as Exhibit 15. As noted, I am fluent in Mandarin Chinese and certify that my description of this exhibit is accurate.

54. AOET also registered to attend the CES trade show as an exhibitor in 2019 and in 2020. The list of exhibitors for 2020 is available at <<https://www.ces.tech/Show-Floor/Exhibitor-Directory.aspx>>. As shown below, it includes AOET:



55. In addition, other AOET employees' descriptions of their job duties corroborate the above descriptions of the imaging-lens industry and the fact that AOET has commercial relationships with American companies, including Dell in Texas. These AOET employees' statements also indicate that AOET's relationships with end-product manufacturers conform with what Largan knows to be typical in the industry.

56. For example, the LinkedIn profile of one longtime AOET manager described his accomplishments as follows:

- “[P]repar[ed] documents for Apple 3p MacBook lens O2MP qualification”;
- “Accelerated HP VGA/HD/2M lens yield target to HP goals”;

- “Coordinated in DELL fingerprint AQP implementation”; and
- “Collaborated with end customer[s],” including Amazon, Google, and Datalogic, “to kick off lens design and transfer to mass production.”

A true and correct copy of a printout of that LinkedIn profile is attached as Exhibit 16.

57. The LinkedIn profile of an AOET engineer includes similar descriptions of her duties and accomplishments:

- “In charge of NB product for Dell, HP. Average shipment 1.5KK per month [and] one of the AOET’s top three mass production models.”
- “In charge of Barcode product for Amazon Lab126.”
- “Work with Amazon, Asus and [m]any other companies’ R&D team to deal with tolerance, dimension and quality issues.”

A true and correct copy of a printout of that LinkedIn profile is attached as Exhibit 17.

58. And the LinkedIn profile of a longtime manager at Newmax’s Design Center states, in Chinese, that his duties included communicating “with international manufacturers such as MS (Microsoft), GOOGLE, [and] Intel for optical specifications.” A true and correct copy of a printout of that LinkedIn profile is attached as Exhibit 18. As noted, I am fluent in Mandarin Chinese and certify that my description of this exhibit is accurate.

59. As noted, AOET also seeks United States patent rights to enhance the value of its products because the United States is its main market. AOET has made extensive use of the United States patent system and, based on Patent Office records, currently is the assignee of 342 United States patents and applications.

60. Newmax also has made extensive use of the United States patent system and, based on Patent Office records, currently is the assignee of 52 patents and applications.

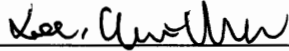
61. Public records further indicate that AOET has obtained United States trademarks under 15 U.S.C. §1051(a) for marking its goods and services in United States commerce. Ac-

cording to the sworn declarations that AOET submitted in support of its trademark applications, AOET has been using these marks in commerce since at least January 2009.

62. It is my understanding that, in the context of such trademark applications, “commerce” refers to commerce that may be regulated by the United States Congress (i.e., trade between states or territories of the United States, or between the United States and a foreign country), and “use in commerce” refers to the applicant’s bona fide use of the mark in trade (i.e., not merely reserving rights). *See* 15 U.S.C. §1127.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 20, 2020.


Chia-Wen Lee